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Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Budget for the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, for the biennium 2006-2007

Report of the Secretary-General

Summary

The present report is submitted in compliance with General Assembly resolutions 58/253 of 23 December 2003 and 59/273 of 23 December 2004. It contains the resource requirements for the biennium 2006-2007 for the International Criminal Tribunal for Rwanda. The report on the outreach programme of the Tribunal, requested by the Assembly in its resolution 59/273, is contained in the annex.

The resources for the biennium 2006-2007, before recosting, amount to $261,640,400 gross ($237,265,600 net), including growth in real terms of $5,759,100 net or 2.5 per cent, compared with the revised appropriation for the biennium 2004-2005.

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I. Overview

1. The International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 was established by the Security Council in its resolution 955 (1994) of 8 November 1994 with the power, according to articles 2, 3 and 4 of its statute, to prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other violations of international humanitarian law committed in the territory of neighbouring States between 1 January and 31 December 1994. In accordance with article 10 of its statute, the Tribunal consists of three organs, namely, the Chambers, the Office of the Prosecutor and the Registry.

2. By its resolution 1329 (2000) of 30 November 2000, the Security Council expressed its continuing conviction that in the particular circumstances of Rwanda, the prosecution of persons responsible for genocide and other serious violations of international humanitarian law contributed to the process of national reconciliation and to the restoration and maintenance of peace in Rwanda and in the region.

3. On 28 August 2003, the Security Council, in its resolution 1503 (2003), called upon the Tribunal to take all possible measures to complete investigations by the end of 2004, to complete all trial activities at first instance by the end of 2008 and to complete all work in 2010 (the completion strategy). The Council again emphasized the importance of implementing fully the completion strategy of the Tribunal in its resolution 1534 (2004) of 26 March 2004.

4. In view of the foregoing, the Tribunal has developed its completion strategy, which comprises two main pillars: (a) the fair and expeditious completion of trials at the Tribunal, in accordance with the deadlines set in Security Council resolutions 1503 (2003) and 1534 (2004), of those who bear the greatest responsibility for the crimes committed in 1994; and (b) the transfer of cases to national jurisdictions. On 24 May 2005, a revised and updated version of the completion strategy was submitted for the consideration of the Security Council (see S/2005/336, enclosure).

5. At the time of submission of the present report, the Tribunal has handed down 19 judgements involving 25 accused since the first trial started in January 1997. Of those, 22 were convicted and 3 acquitted. Six of the convicts are presently serving sentences in Mali. Furthermore, nine trials, involving 25 detainees, are currently in progress. Judgements in two of those trials are expected by the end of 2005. Consequently, at the start of the biennium 2006-2007, the total number of accused whose trials have been completed or are in progress is 50.

6. Sixteen detainees in Arusha are awaiting trial. The Prosecutor intends to transfer 5 of them to national jurisdictions for trial and the remaining 11 will be brought to trial from 2006 onwards.

7. It is estimated that during the biennium 2006-2007, there will be 18 cases in trial, 11 new cases and 7 existing cases involving 34 accused (*Butare* (6 accused), *Military I* (4 accused), *Government* (4 accused), *Karemera et al.* (3 accused), *Rwamakuba, Military II* (4 accused), *Muvunyi, Nchamihigo, Mpambara, Rukundo,*

Zigiranyirazo, *Kanyarukiga*, *Bisengimana*, *Nzabirinda*, *Bikindi*, *Nsengimana*, *Gatete* and *Renzaho*). At the same, it is anticipated that by the end of the biennium, trials of the five existing multi-accused cases, involving 21 accused (*Butare*, *Military I*, *Government*, *Karemera et al.* and *Military II*) will be completed. Regardless of the outcome of the decisions, it is anticipated that most of those cases will be appealed.

8. With respect to appeals, 10 appeals involving 13 accused are currently proceeding on the merits. It is anticipated that during the biennium 2006-2007, 18 additional appeals will commence owing to the possible increase in conviction of the trials that are expected to be completed by the end of the biennium 2006-2007.

9. During the biennium 2006-2007, the Prosecution will place emphasis on: (a) completing the transfer of the evidence against 30 to 40 former targets of investigation to national jurisdictions; (b) seeking judicial approval under rule 11 bis of the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda to refer the cases against 5 of the 16 detainees currently awaiting trial to national jurisdictions for trial; (c) tracking and arrest of 14 indictees who remain at large, while, at the same, seeking judicial approval under rule 11 bis of the Rules of Procedure and Evidence to transfer the cases of 4 indictees to national jurisdictions; and (d) presenting eight additional indictments for confirmation and later seeking judicial approval for the transfer of four of those indictments to national jurisdictions under rule 11 bis.

10. As the Tribunal shifts emphasis from investigations and arrests to trials, the Prosecution Division will be restructured to strengthen its operational capacity with respect to trial attorneys in order to respond to the increased demands related to pre-trial, trial and appeals. Along those lines, the Investigations Division, based in Kigali, will undergo a reduction with respect to posts, from 106 to 60 posts.

11. Under the new structure, the Investigations Division will be organized around the support work required by trial and appeals teams in the three phases of trial work: pre-trial, trial and appeals. In addition, the Division will continue to provide support to the tracking and arrest of the 10 indictees who remain at large and to the transfer of rule 11 bis cases and investigations dossiers to local courts. As a result, 15 posts (1 P-4, 2 P-3, 8 P-2 and 4 GS/OL) will be redeployed to strengthen the Judicial and Legal Services Division of the Registry and 31 posts will be redeployed within the Office of the Prosecutor.

12. At the same, the number of cases reaching the appeals stage and the frequency of interlocutory appeals in complex trials will require the upgrading of the Appeals Section in the Office of the Prosecutor to an Appeals and Legal Advisory Division, to be headed by a D-1 post (see para. 32). In this respect, the proposal includes the redeployment of the post currently established for the Director of Investigations as well as the redeployment of Investigators' posts required to increase the number of appeals attorneys by 26 (2 P-5, 3 P-4, 10 P-3, 11 P-2). Furthermore, four posts at the GS/OL level will be redeployed from the Investigations Division to support the new division.

13. The overall resources required for the biennium 2006-2007 for the Tribunal amount to $261,640,400 gross ($237,265,600 net), before recosting, reflecting an increase in resources, before recosting, of $5,730,900 gross, or 2.2 per cent ($5,759,100 net or 2.5 per cent) when compared to the revised appropriation for the biennium 2004-2005. The overall level of resources, as indicated in tables 2 and 3

below, will provide for the continuation of 1,042 temporary posts and reflects, inter alia, increased requirements under the Chambers ($453,800) and the Registry ($10,886,900) offset by reductions under the Office of the Prosecutor ($5,609,800).

14. The recosting of the proposed budgetary provisions at 2006-2007 rates contained in the present report is preliminary. For salaries related to posts in the Professional and higher categories, adjustments reflect the projected movement of post adjustment indices in 2005. Similarly, with regard to General Service salaries, recosting includes the forecast of probable cost-of-living adjustments based on anticipated inflation rates. The average vacancy rates for Professional and General Service posts realized in 2004 are proposed for 2006-2007. No attempt is made to forecast the movement of the relevant currency vis-à-vis the United States dollar at this time. The proposed budget will be recosted in December 2005, based on the latest data on actual inflation experience, the movement of post adjustment indices in 2005, the outcome of salary surveys, if any, salary expenditure experience and evolution of operation rates of exchange in 2005.

15. The amount of extrabudgetary resources, estimated at $3,624,500, will be utilized for activities related to supporting the work of the Office of the Prosecutor and the Registry.

16. The distribution of resources proposed for the Tribunal for the biennium 2006-2007 is reflected in tables 1-3 below.

Table 1
Percentage distribution of resources by component

	Assessed budget	*Extrabudgetary*
1. The Chambers	3.9	—
2. Office of the Prosecutor	24.7	13.8
3. The Registry	71.4	86.2
Total	**100.0**	**100.0**

Table 2
Summary of requirements
(Thousands of United States dollars)

(1) Assessed budget

Component	*2002-2003 expenditure*	*2004-2005 appropriation*	*Resource growth*		*Total before recosting*	*Recosting*	*2006-2007 estimate*
			Amount	*Percentage*			
Expenditure							
1. The Chambers	5 226.0	9 657.1	453.8	4.7	10 110.9	267.2	10 378.1
2. Office of the Prosecutor	51 544.5	70 212.3	(5 609.8)	(8.0)	64 602.5	6 016.2	70 618.7
3. The Registry	151 572.5	176 040.1	10 886.9	6.2	186 927.0	16 349.4	203 276.4
Total (gross)	**208 343.0**	**255 909.5**	**5 730.9**	**2.2**	**261 640.4**	**22 632.8**	**284 273.2**

Component	2002-2003 expenditure	2004-2005 appropriation	Resource growth: Amount	Resource growth: Percentage	Total before recosting	Recosting	2006-2007 estimate
Income							
Income from staff assessment	21 376.0	24 403.0	(28.2)	(0.1)	24 374.8	999.6	25 374.4
Total (net)	**186 967.0**	**231 806.5**	**5 759.1**	**2.5**	**237 265.6**	**21 633.2**	**258 898.8**

(2) Extrabudgetary resources

	2002-2003 expenditure	2004-2005 estimate	2006-2007 estimate
Activities	1 378.9	2 926.1	3 624.5
Total	**1 378.9**	**2 926.1**	**3 624.5**
Total (1) and (2)	**188 345.9**	**234 432.6**	**262 523.3**

Table 3
Post requirements

Category	Assessed budget: 2004-2005	Assessed budget: 2006-2007	Extrabudgetary: 2004-2005	Extrabudgetary: 2006-2007	Total: 2004-2005	Total: 2006-2007
Professional and above						
Under-Secretary-General	1	1	—	—	1	1
Assistant Secretary-General	1	1	—	—	1	1
D-2	1	1	—	—	1	1
D-1	4	4	—	—	4	4
P-5	31	31	—	—	31	31
P-4/3	257	257	—	—	257	257
P-2/1	119	119	—	—	119	119
Subtotal	**414**	**414**	**—**	**—**	**414**	**414**
General Service and other						
Principal level	7	7	—	—	7	7
Other level	187	187	—	—	187	187
Security Service	87	87	—	—	87	87
Local level	322	322	—	—	322	322
Field Service	25	25	—	—	25	25
Subtotal	**628**	**628**	**—**	**—**	**628**	**628**
Total	**1 042**	**1 042**	**—**	**—**	**1 042**	**1 042**

II. Programme of work and resource requirements

A. The Chambers

17. The Chambers comprise nine permanent trial judges and nine ad litem judges in Arusha, United Republic of Tanzania. It is the judicial organ of the Tribunal, performing its core function: the determination of guilt or innocence of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States between 1 January and 31 December 1994.

18. The appeals chamber consists of seven permanent appeals judges in The Hague, five of whom are financed from the International Tribunal for the Former Yugoslavia and two of whom are charged to the budget of the International Criminal Tribunal for Rwanda.

19. During the first 18 months of the biennium 2004-2005, the Tribunal had 13 trials running, involving 29 accused. Judgement in 6 of the trials involving 8 accused was delivered during that period (*Kamuhanda*, *Cyangugu* (3 accused), *Gacumbitsi*, *Ndindabahizi*, *Rutaganira*, and *Muhimana*).

20. At the same time, the appeals chamber dismissed the appeals and affirmed the convictions of Eliezer Niyitegeka, former Minister of Information in Rwanda's interim Government in 1994, and Elizaphan Ntakirutimana, former pastor of the Seventh Day Adventist Church in Mugonero, and his son, Gérard Ntakirutimana, a doctor.

21. On 1 March 2005, the Tribunal inaugurated its fourth courtroom, thereby increasing its judicial output. The Governments of Norway and the United Kingdom contributed a total of $420,000 to cover the construction and operating expenses of the fourth courtroom.

22. During the biennium 2006-2007, the Chambers anticipates to work on the following: 7 trials, 11 pre-trial procedures, 36 appeals from final trial chamber judgements and all interlocutory appeals arising from the foregoing. The Chambers will continue to consider applications by the Prosecutor to transfer cases to national jurisdictions. It is to be noted that such transfers will require significant work from Chambers judges and staff to ensure a smooth transition.

Outputs

23. During the biennium 2006-2007, the following outputs will be delivered:

(a) Courtroom activities: orders for the transfer and detention of suspects, initial appearances, hearings on pre-trial motions, status conferences, pre-trial conferences, pre-defence conferences, reviews of and orders for protection measures for witnesses, trials, issuance of judgements of acquittal under rule 98 bis, issuance of final judgements, sentencing procedures, reviews and deferrals, suspensions of indictments under rule 11 bis and issuance of restitution orders in appropriate cases;

(b) Judicial activities: review and confirmation or dismissal of indictments or counts thereof, deliberations, consideration of applications for orders and

warrants, taking of depositions, holding of informal scheduling conferences, consideration of amicus curiae applications and supervision of imprisonment;

(c) Reports of the President to the Security Council, on the request of a trial chamber or the Prosecutor, as to non-compliance by States with orders of the Tribunal;

(d) Annual report to the General Assembly and the Security Council under article 32 of the statute;

(e) Appeals for international assistance to States;

(f) Discussion of issues of mutual concern and matters of policy and consideration and modification of the Rules of Procedure and Evidence and other basic texts of the Tribunal;

(g) Issuance of definitive editions of the Rules of Procedure and Evidence and the basic texts of the Tribunal in both working languages of the Tribunal, in both hard-copy and electronic formats;

(h) Research in international and national law and preparation, drafting, editing and issuance of all such documents, in both working languages of the Tribunal, in both hard-copy and electronic formats;

(i) Press releases on matters of importance to the Tribunal as a whole;

(j) Special events: hosting visiting dignitaries, usually at the ambassador or foreign minister level, and meeting heads of State, explaining courtroom activities and the functioning of the Tribunal, establishing and maintaining high-level contacts with Governments of Member States to facilitate and improve cooperation with the Tribunal, swearing in new judges and hosting judges from other jurisdictions;

(k) Non-governmental organizations: responding to a few of the large number of requests for speakers and participation in seminars, conferences and symposiums on all aspects of judicial activity;

(l) Participation in activities within the United Nations system: annual statement by the President to the General Assembly and participation in meetings concerning the role of the Tribunal within the United Nations system, cooperation with the International Tribunal for the Former Yugoslavia and participation in discussions concerning other international judicial entities.

Table 4
Resource requirements

	Resources (thousands of United States dollars)		*Posts*	
Category	*2004-2005*	*2006-2007 (before recosting)*	*2004-2005*	*2006-2007*
Assessed budget				
Non-post	9 657.1	10 110.9	—	—
Total	**9 657.1**	**10 110.9**	—	—

24. The amount of $10,110,900, representing an increase of $453,800, covers the costs of compensation for the 20 judges, including two permanent appeals judges in The Hague, and travel requirements for the judges. The increase is attributable to the decision taken by the General Assembly in its resolution 59/282 of 13 April 2005 to increase the salary and pension of judges by 6.3 per cent, effective 1 January 2005, as an interim measure, pending review of the emoluments, pensions and other conditions of service of the judges at the Assembly's sixty-first session. Estimates contained in the present document may need to be adjusted in light of decisions taken at that time. The estimates also include increase in travel requirements owing to an increase in the number of appeal judges who travel to Arusha, from five to seven, and increases in travel costs.

B. Office of the Prosecutor

25. The Office of the Prosecutor is responsible for the prosecution of persons suspected of bearing the highest responsibility for the commission of genocide and other serious violations of international humanitarian law committed in the territory of the Republic of Rwanda in 1994 as well as Rwandans who are suspected of committing such acts in neighbouring territories between 1 January and 31 December 1994. The role and responsibilities of the Prosecutor consist in the investigation and prosecution of the crimes listed in the statute of the International Criminal Tribunal for Rwanda, namely, article 2, on genocide, article 3, on crimes against humanity, and article 4, on violations of article 3 common to the Geneva Conventions and of Additional Protocol III. He is therefore responsible for the collection of evidence establishing the commission of such crimes, the tracking and arrest of those he indicts and the presentation of charges and evidence against them before the Chambers of the Tribunal.

26. During the biennium 2004-2005, the work of the Office of the Prosecutor intensified as the implementation of the completion strategy began to unfold. During this period, the Office has been heavily involved in meeting the first major target of the completion strategy, namely the completion of 16 new investigations. The files involving eight of those persons have closed owing to insufficient evidence, whereas the eight indictments in respect of the remaining eight suspects have been submitted for confirmation. It is the intention of the Prosecutor to transfer four of the indictments to national jurisdictions for trial.

27. In February 2005, the Office of the Prosecutor took another major step towards the realization of the completion strategy as it commenced the process of transferring cases under rule 11 bis and investigation dossiers to national jurisdictions. As at the time of submission of the present report, a total of 21 dossiers have been handed down to the Ministry of Justice of the Republic of Rwanda for further investigation and prosecution. On the Rwandan side, the Government has published a law for comment which would facilitate the transfer to Rwanda for trial of persons accused under the terms of rule 11 bis. It is anticipated that the first motions would be filed during the second half of 2005.

28. The Prosecutor has begun the intensification of the programme for the tracking and apprehension of 14 indicted suspects who remain at large, of whom the Prosecutor intends to transfer four to national jurisdictions for trial. The programme involves visiting headquarters of Member States and talking to the highest

authorities about cooperation. Among others, he has visited countries such as Kenya, the Democratic Republic of the Congo, the Congo, the Central African Republic and Cameroon and held in-depth discussions with top senior government officials and secured their commitment to cooperate in the intensification of the effort to apprehend fugitives. That programme is coupled with a revised tracking strategy on the ground of the Office of the Prosecutor which envisages members of the Tracking Unit spending a lot more time on the ground in the countries where the fugitives are believed to be hiding.

29. With the completion of new investigations and the inauguration of the fourth courtroom, prosecution and trial work has increased. It is anticipated that during the biennium 2006-2007, the Office of the Prosecutor will be dealing with the prosecution of 18 cases involving 34 accused (*Butare* (6 accused), *Military I* (4 accused), *Government* (4 accused), *Military II* (4 accused), *Karemera et al.* (3 accused), *Rwamakuba* (1 accused), *Muvunyi* (1 accused) and 11 single accused trials of detainees presently at the United Nations Detention Facility). Of those cases, it is expected that judgements in respect of five cases (*Butare*, *Military I*, *Government*, *Karemera et al.* and *Military II*) will be completed during the biennium 2006-2007, whereas the remainder will continue beyond 2007.

30. At the same, the appeal work is also expected to increase considerably owing to the expected completion by 2007 of five of the existing multi-accused cases, involving 21 accused. Moreover, it is anticipated that judgement in respect of seven single accused cases will also take place during the biennium 2006-2007, thereby further increasing the workload of the Appeals Section. In sum, the Office of the Prosecutor estimates that during the biennium 2006-2007, some additional 30 cases will be reaching the appeal stage.

31. In line with those developments, the Investigations Division will be reorganized and restructured to provide support in respect of (a) preparation of cases for trial, (b) actual trial support, (c) tracking of indicted fugitives and crucial witnesses, (d) coordination of confidential sources and sensitive witnesses and (e) supporting ongoing appeals and preparation of cases earmarked for transfer to national jurisdiction. Such work is essential not only for the effective implementation of the completion strategy but also for the conduct of criminal trials. The reorganization will consist of the reduction of 46 posts (38 posts at the Professional level and 8 posts at the General Service level) effective 1 January 2006. Further reductions will be proposed in the context of subsequent budget proposals.

32. Similarly, as mentioned in paragraph 12, with the anticipated increase in the number of appeals, the Appeals Section will be upgraded to an Appeals and Legal Advisory Division through the redeployment of 31 posts from the Investigations Division. The new Division will be headed by a Chief of Appeals and Legal Advice at the D-1 level and will be supported by an additional 26 trial attorneys (2 P-5, 3 P-4, 10 P-3, 11 P-2) and an additional four Legal Assistants at the GS/OL level.

Table 5
Objectives for the biennium, expected accomplishments and indicators of achievement

Objective: To meet the requirements of the Security Council with regard to the investigation and prosecution of persons who bear the highest responsibility for the violation of international humanitarian law in a fair manner and within a time frame that facilitates the implementation of the completion strategy.

Expected accomplishments	*Indicators of achievement*
(a) Effective management and implementation of the completion strategy	(a) Number of prosecutions *Performance measures* 2002-2003: 5 cases involving 8 accused 2004-2005 estimate: 7 cases involving 22 accused 2006-2007 target: 23 cases involving 39 accused
(b) Completion of new investigations	(b) Number of arrests *Performance measures* 2002-2003: 8 2004-2005 estimate: 9 2006-2007 target: 8
(c) Facilitation of appeals to successful conclusion	(c) Number of appeals concluded *Performance measures* 2002-2003: 2 2004-2005 estimate: 3 2006-2007 target: 17
(d) Transfer of dossiers to national jurisdictions	(d) Number of dossiers transferred *Performance measures* 2002-2003: not applicable 2004-2005 estimate: 30 2006-2007 target: 10

Expected accomplishments	*Indicators of achievement*
(c) Transfer of cases to national jurisdictions under rule 11 bis	(c) Number of cases transferred *Performance measures* 2002-2003: not applicable 2004-2005 estimate: 8 2006-2007 target: 5

External factors

33. The Office is expected to meet its objectives and expected accomplishments on the assumption that:

(a) Witnesses are available;

(b) The security and safety of witnesses are ensured in cooperation with national Governments;

(c) Member States, non-governmental organizations and the international community remain supportive of the overall mission and vision of the Tribunal;

(d) Member States cooperate in the arrest of indicted persons.

Outputs

34. During the biennium, the following outputs will be delivered:

(a) Investigative: witness and expert witness statements, summaries of witness interviews, witness schedules and protective measures for witnesses; reports on the arrest of fugitives, intelligence related to suspects and fugitives, the collection of evidence relevant to investigations, trials and appeals and requests for assistance; witness binders; briefs of evidence for the submission of indictments; unofficial translations and English summaries of documentation in the local language; and indictment reviews;

(b) Prosecution: filings related to the prosecution of cases and appeals, including indictments and amended indictments; motions, responses to defence motions, witness statements, opening briefs, closing briefs, sentencing briefs, appeals on the merits, interlocutory appeals, plea agreements, miscellaneous applications for subpoenas, search warrants, the detention of suspects and the transmission of arrest warrants;

(c) Trial preparation: exhibits, witness summaries, extensive searches for relevant material to be disclosed to the defence, training courses, including legal issues, advocacy and legal opinions on issues of international law;

(d) Management: policy papers and directives, guidelines related to legal practice, annual reports, funding proposals and budget preparation; reports on activities of States relevant to cooperation; press releases, speeches, statements and briefings; and training of staff of the Prosecutor's Office.

Table 6
Resource requirements

Category	Resources (thousands of United States dollars)		Posts	
	2004-2005	2006-2007 (before recosting)	2004-2005	2006-2007
Assessed budget				
Post	57 839.3	52 855.3	240	225
Non-post	4 007.5	3 855.3	—	—
Staff assessment	8 365.5	7 891.9	—	—
Subtotal	**70 212.3**	**64 602.5**	**240**	**225**
Extrabudgetary	473.1	500.0	—	—
Total	**70 685.4**	**65 102.5**	**240**	**225**

35. Resources under posts and staff assessment in the amount of $52,855,300 and $7,891,900, respectively, would provide for the continuation of 225 temporary posts. The net decrease of $4,984,000 for posts and $473,600 for staff assessment is attributable to the redeployment of 46 posts from the Investigations Division in Kigali to Arusha, including the outward redeployment of 15 posts to the Registry.

36. The total non-post resources requested in the amount of $3,855,300, reflecting a decrease of $152,200, will provide for fees and travel of consultants and expert witnesses, official travel of staff and operational expenses. The net decrease is attributable to reduced travel requirements under the Prosecution Division ($388,900), partially offset by increases under consultants and experts ($40,700) and operating expenses ($196,000).

C. The Registry

37. The Registry is responsible for the judicial administration and servicing of the Tribunal. It is composed of three main organizational units, namely, the Immediate Office of the Registrar, the Judicial and Legal Services Division and the Division of Administrative Support Services. For budgetary purposes, the resident auditor and investigators, while reporting directly to the Office of Internal Oversight Services, are reflected under the Registry.

38. During the biennium 2006-2007, the Registry will continue to focus on the implementation of a sound and realistic completion strategy, the main objectives of which include: (a) providing support for the expeditious and fair trials of top-level accused; and (b) the transfer of middle and lower-level cases to competent national jurisdictions.

39. In support of those objectives, the Registry has implemented several control measures, including limiting the number of reimbursable hours during the pre-trial and appellate stages and limiting the presence of the Defence Team members in Arusha during the trial stage, which contributed to more effective operations of the Tribunal. In addition, the Registry is in the process of introducing the lump-sum system of payment under the legal aid programme during the pre-trial, trial,

appellate and review stages in line with the recommendation of the Board of Auditors.

40. The External Relations and Strategic Planning Section hosted several exhibitions in Dar es Salaam and Arusha, Kigali (Rwanda) and Boston, produced a 12-minute documentary film showcasing the work of the Tribunal on the tenth anniversary of the genocide, conducted six workshops attended by 250 professionals aimed at strengthening their knowledge of Rwandan officials in areas such as international criminal laws and legal documentary techniques, arranged for the provision of bursaries to 12 Rwandan law students who carried out thesis research in areas linked to the work of the Tribunal, and published and distributed several documents in English, French and Kinyarwanda.

41. The Legal Library and Reference Section integrated the library catalogue, periodicals and loans, implemented the use of bar codes and the automation of loan registration and introduced the Online Public Access Catalogue. The Section also issued the second edition of the CD-ROM entitled "ICTR Basic Documents and Case Law 2001-2002".

42. The Division of Administrative Support Services undertook various initiatives that improved the efficiency of administrative support and cut down costs in the areas of human resources, budget and finance, telecommunications and general support services. Such measures included the recruitment of qualified spouses of staff members in line with other measures contemplated to retain staff members; the introduction of e-pay slips and the direct deposit of salaries; the introduction of the Workload Indicators database system for the centralized monitoring and tracking of the workload indicators and the measurement of performance; the implementation of the online telephone billing system, the use of PIN codes for all external communications and the use of videoconferencing for meetings and remote witness testimonies; the introduction of the fuel consumption module and the online processing of transport requests and building management service orders.

Table 7
Objectives for the biennium, expected accomplishments and indicators of achievement

Objective: To ensure appropriate and successful implementation of the Tribunal's legal and administrative support activities in compliance with the regulations and rules of the United Nations and with a view to supporting the completion strategy.

Expected accomplishments	*Indicators of achievement*
(a) Timely implementation of actions taken pursuant to the completion strategy	(a) Number of actions completed on time *Performance measures* 2002-2003: not applicable 2004-2005 estimate: 12 2006-2007 target: 13

Expected accomplishments	*Indicators of achievement*
(b) Strengthened cooperation of Member States on enforcement of sentence matters	**(b) Number of new memorandums of understanding concluded with Member States** *Performance measures* 2002-2003: 3 2004-2005 estimate: 4 2006-2007 target: 6
(c) Increased public awareness of the work of the Tribunal	**(c) Number of inquiries with respect to the work of the Tribunal** *Performance measures* 2002-2003: 3,500 inquiries 2004-2005 estimate: 3,780 inquiries 2006-2007 target: 5,200 inquiries
(d) Timeliness of proceedings	**(d) Reduction in delays in the distribution of judicial documents** *Performance measures* 2002-2003: 48 to 72 hours 2004-2005 estimate: 48 hours 2006-2007 target: same day to 24 hours
(e) Improved dissemination of judicial records to the parties and indirectly to the public through the Internet	**(e) (i) All judicial records filed with the Registry are received, filed, copied and digitized within a 24-hour period** **(ii) All public judicial records are available through the Tribunal's website within 10 working days** *Performance measures* 2002-2003: judicial records are processed within 24 hours and placed on the website within 6 months 2004-2005 estimate: judicial records are processed within 24 hours and placed on the website within 48 hours 2006-2007 target: judicial records are received, filed, scanned and disseminated within 48 hours

Expected accomplishments	*Indicators of achievement*
(f) Faster turnaround time for decisions and orders after the conclusion of pleadings	(f) Maximum deadline of five days after initial deliberations of the first draft *Performance measures* 2002-2003: 6 days 2004-2005 estimate: 6 days 2006-2007 target: 5 days
(g) Strengthened services provided to staff, Member States, vendors and other entities	(g) Increase in client's satisfaction level with respect to the accuracy and quality of services provided *Performance measures* 2002-2003: 65 per cent 2004-2005 estimate: 90 per cent 2006-2007 target: 100 per cent
(h) Reform of the legal aid system	(h) Reduction in the number of cases for which payments are in excess of agreed-upon thresholds *Performance measures* 2002-2003: not applicable 2004-2005 estimate: 272 claims 2006-2007 target: 0 claims

External factors

43. The Office is expected to meet its objectives and expected accomplishments on the assumption that:

(a) Member States continue to cooperate in the arrest and transfer of indicted persons and in the provision of information;

(b) There are no delays in the proceedings for reasons beyond the control of the Tribunal, including illness of the accused, unforeseen disclosure of material, requests for replacement of defence counsel, review of cases already tried and the availability of witnesses to certify statements and provide testimony.

Outputs

44. During the biennium the following outputs will be delivered:

(a) Providing policy guidance and executive direction for the coordination and implementation of a sound and realistic completion strategy;

(b) Providing consistently effective judicial support services to the Chambers and the Office of the Prosecutor, undertaking continuous review of reforms already in place and carrying out a regular consultative process with the judges and the Prosecutor in this context;

(c) Resolving, in cooperation with the Office of Legal Affairs at Headquarters, legal and practical problems with regard to the enforcement of sentences and supervising the practical enforcement of sentences in countries that have signed agreements with the United Nations for that purpose;

(d) Monitoring the implementation by relevant parts of the Registry of measures to eliminate abuses of the legal aid system of the Tribunal;

(e) Sustaining and improving the level of cooperation and political and operational support for the Tribunal by external counterparts, such as Governments and non-State entities;

(f) Formulating and implementing an aggressive strategy for mobilizing resources for the trust fund for the Tribunal for the execution of important projects that are key to the discharge of its mandate;

(g) Continuing systematic efforts to improve the image and visibility of the Tribunal through the effective dissemination of public information and the accurate projection of its work at appropriate levels, as well as the conduct of appropriate programmes for visitors to the Tribunal, who are frequently high-level individuals and institutions;

(h) Providing direct judicial assistance to the trial chambers and the appeals chambers, such as legal research, drafting and other judicial support; preparation of the judicial calendar, maintenance and scheduling of courtrooms; and the recording, maintenance and registration of records of judicial proceedings, transcripts, motions, orders, decisions, judgements and sentences; provision and maintenance of the detention facilities; development and maintenance of a system to remunerate defence counsel; and assistance to prosecution and defence witnesses testifying before the Tribunal;

(i) Providing administrative services for all activities of the Tribunal in the areas of human resources management; budget and finance; general services, building management and transport; information technology; security and safety; procurement; and health services. It will also continue to support the services of the United Nations Detention Facility.

Table 8
Resource requirements

	Resources (thousands of United States dollars)		*Posts*	
Category	*2004-2005*	*2006-2007 (before recosting)*	*2004-2005*	*2006-2007*
Assessed budget				
Post	113 374.7	116 196.8	802	817
Non-post	46 627.9	54 247.3	—	—
Staff assessment	16 037.5	16 482.9	—	—
Subtotal	**176 040.1**	**186 927.0**	**802**	**817**
Extrabudgetary	2 453.0	3 124.5	—	—
Total	**178 493.1**	**190 051.5**	**802**	**817**

45. Resources amounting to $186,927,000 would provide for the continuation of 817 temporary posts and various non-post items. The increase in post resources ($2,822,100) and staff assessment resources ($445,400) is attributable to the inward redeployment of 15 posts from the Investigations Division (Kigali) of the Office of the Prosecutor to the Judicial and Legal Services Division (Arusha) of the Registry to ensure adequate support to the Chambers and the Office of the Prosecutor in the judicial process.

46. The non-post resource growth of $7,619,400 relates mainly to increased requirements under: (a) consultants and expert witnesses for the defence ($452,200); (b) travel of staff ($88,500); (c) travel and allowance of witnesses and victims ($414,800); (d) defence counsel fees ($3,022,400) and other contractual services ($358,300); (e) operating expenses, including protection and relocation of witnesses ($1,245,600), enforcement of sentences ($180,000), rations for detainees ($41,100) and other operating expenses ($419,100); (f) replacement of furniture and equipment ($126,200); and (g) the Tribunal's share of United Nations field security arrangements ($1,376,900). The increase is partially offset by reduced requirements under improvement of premises ($105,700).

Table 9
Summary of follow-up action taken to implement relevant recommendations of the Advisory Committee on Administrative and Budgetary Questions and the Board of Auditors

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
A. Advisory Committee on Administrative and Budgetary Questions (A/59/561)	
The Advisory Committee encourages the International Criminal Tribunal for Rwanda to consider the implementation of the lump-sum payment system in respect of the legal aid reform (para. 25).	The Registry implemented several control measures, including limiting the number of reimbursable hours during the pre-trial and appellate stages and limiting the presence of the Defence Team members in Arusha during the trial stage. In addition, the Registry is in

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
	the process of introducing the lump-sum system of payment under the legal aid programme during the pre-trial, trial, appellate and review stages.
The Advisory Committee is of the view that disciplinary action with regard to cases of proven fraud should take place in the most expeditious way, staff rules and regulations should be adopted, if necessary, to allow such swift disciplinary action (para. 26).	Appropriate actions have been taken by the Tribunal, including suspension without pay of a staff member and referral of the case to the Office of Human Resources Management for review and advice. With regard to two other cases, staff members have been temporarily reassigned to other units and cases referred to the Office of Human Resources Management for further review and advice.
B. Board of Auditors (A/59/5/Add.11)	
The Board recommends that the Tribunal:	
(a) Comply with United Nations system accounting standards by not netting accounts payable off against accounts receivable and vice versa;	Stricter measures have been implemented to ensure that accounts receivable and payable are shown separately and not netted off against each other.
(b) Improve the financial application system to prevent the netting off of debit and credit amounts (paras. 11 (a) and 26).	Changes have been effected in the design/layout of the reporting module by separating the debits and credits to avoid netting off effects. Consequently, the SUN system is now able to produce separate debit and credit reports of ageing analysis reports.
The Board recommends that the Tribunal continue to improve and maintain adequate control over non-expendable equipment (para. 33).	Asset managers under the field asset control system in Arusha and Kigali have undergone training. Bar code labels have been physically assigned to all active non-expendable assets; physical verification of all non-expendable assets was carried out, and the records in the field asset control system were updated.
The Tribunal agreed with the Board's recommendations that it:	
(a) Continue to monitor progress in terms of the completion strategy and take all necessary steps to complete its planned activities on time;	Implementation of recommendations (a), (b) and (c) is ongoing. A task force has been set up to look at the possibility of strengthening the appeals chamber by merging the International Criminal Tribunal for Rwanda Appeals Unit with that of the International Criminal Tribunal for the Former Yugoslavia. The task force will be reporting to management in due course.
(b) Prepare a completion strategy for the appeals chamber in consultation with the International Criminal Tribunal for the Former Yugoslavia;	

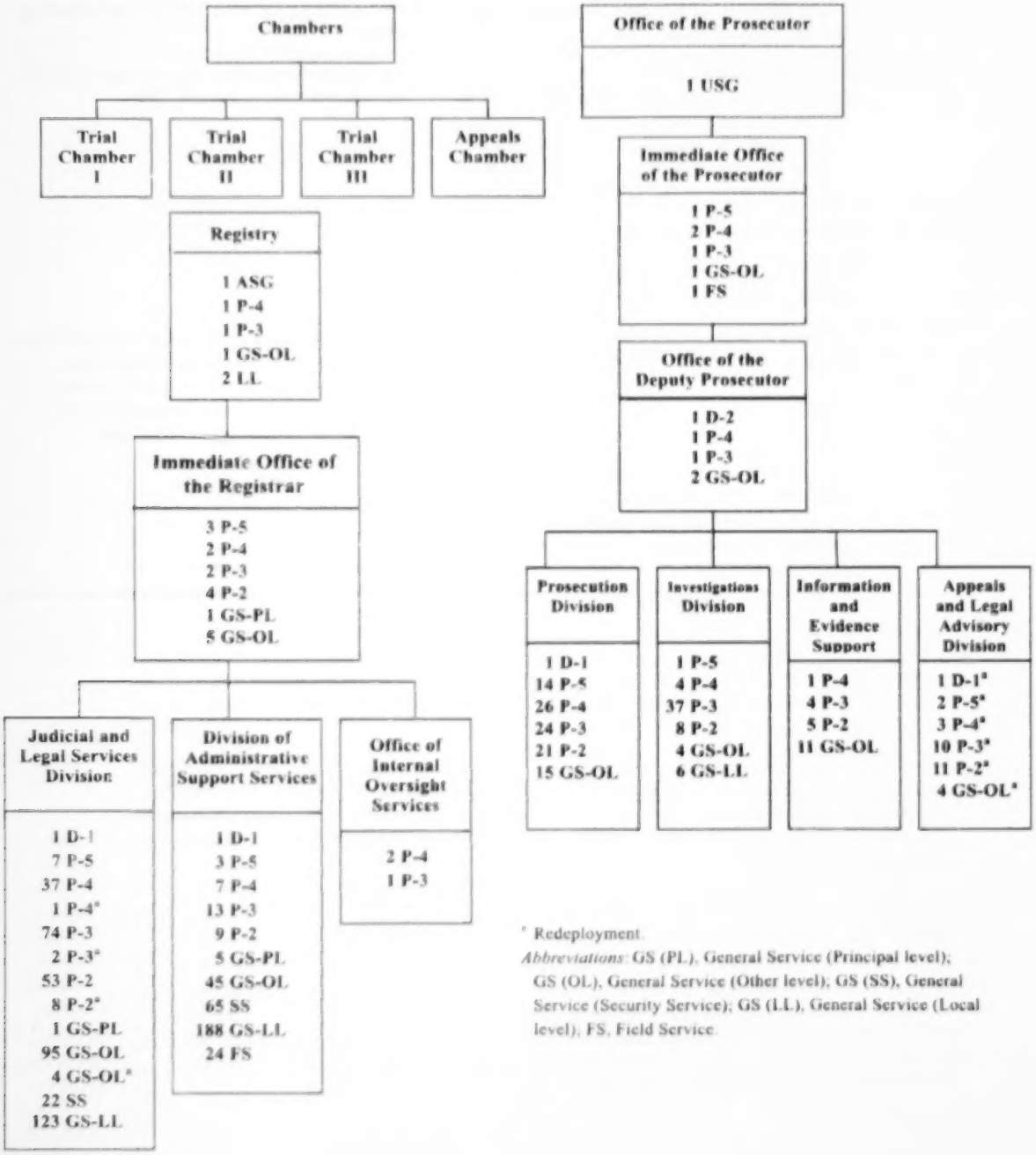
Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
(c) Include in its completion strategy a process to obtain donor support for the purpose of addressing factors that may limit the ability of the Tribunal to hand cases over to national judicial systems. The Tribunal could also seek assistance from the United Nations system to create partnerships for obtaining donor support in order to implement judicial reforms in Member States (paras. 11 (c) and 46).	
The Board recommends that the Tribunal continue its efforts to verify the financial position of the accused through improved communication with Member States (paras. 11 (f) and 64).	A financial investigator has been recruited and in-house investigations are in progress. In this regard, the active cooperation of Member States is crucial to the successful completion of investigations.
The Board recommends that the International Criminal Tribunal for Rwanda:	
(a) Continue to monitor the submission of invoices by defence counsel using the new software;	(a) The database needed for this function has been updated; the monitoring of invoices is an ongoing process.
(b) Evaluate the lump-sum system of legal aid at the International Criminal Tribunal for the Former Yugoslavia in order to ascertain whether such a system could assist in limiting the increasing cost of legal aid (para. 70).	(b) The evaluation has been carried out and presentation has been made to the Registrar and the President. Draft policy has been adopted. Consultations with defence teams are ongoing.
The Board recommends that the Tribunal:	
(a) Monitor the costs incurred in securing the attendance of witnesses;	(a) ICTR keeps a record of all expenditures in securing the attendance of witnesses.
(b) Continue to recover costs from defence counsel in line with the Registrar's directives (para. 76).	(b) Implementation is in progress. It is, however, difficult to come up with a timetable on the implementation of this recommendation since the Witness and Victim Support Section cannot predict the behaviour of Defence Counsel in requesting production of their witnesses, or the exact number of witnesses to be returned to their country of residence without testifying. If a defence witness is brought to Arusha without testifying, the Section will notify the Defence Counsel and the Detention Management Section and request that the Defence Counsel support the costs and associated costs for the movement of the witness. The action has already been envisaged by the Registrar in the directive on costs recovery and the Section complies with the said directive.

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
The Board recommends that the Tribunal ensure that the Language Services Section and the Office of the Prosecutor continue to work together to monitor the nature of requests so as to prevent the translation of documents that have no probative value (paras. 11 (g) and 85).	The system has been substantially streamlined whereby the Office of the Prosecutor and the Language Services Section will meet for this purpose at two-week intervals. The Office of the Prosecutor will scan the list of documents provided and identify documents with no probative value.
The Tribunal agreed with the Board's recommendation that it:	
(a) Continue to make progress with regard to the implementation of results-based budgeting by introducing more stringent central monitoring mechanisms;	An online database system has been designed to compile and generate workload indicators every quarter. The workload indicators database comprises the initial phase of the envisaged centralized monitoring and tracking system aimed at aligning and linking workload indicators/indicators of achievement with results-based budgeting and completion strategy.
(b) Further develop and update the workload indicators to align with results-based budgeting and the exit/completion strategy (para. 100).	
The Board reiterates its previous recommendation that the Tribunal:	
(a) Conduct reference checks on all new eligible candidates;	
(b) Maintain accurate and complete records of such reference checks (para. 114).	This recommendation is fully implemented.
The Tribunal agreed with the Board's recommendation to take steps to use the general temporary assistance funds in accordance with the purposes for which they were intended (para. 116).	Staff members who were initially recruited against general temporary assistance funds are being gradually placed against authorized posts whenever it is possible.
The Tribunal agreed with the Board's recommendation that it continue its efforts to reduce the vacancy rates, with special emphasis on the Office of the Prosecutor (para. 122).	Intensive efforts exerted by the Tribunal to improve the vacancy rates have been countered by the recruitment freeze effected between May through December 2004. The freeze resulted in a sizeable number of departures from both Professional and General Service staff, a trend which continues to date. To promote greater interest in staff to remain with the Tribunal, a number of special measures to counteract attrition have been jointly proposed by ICTR and ICTY and endorsed by the Office of Human Resources Management, and are reflected in a report that will be submitted to the General Assembly for consideration.

Brief description of the recommendation	*Action taken or to be taken to implement the recommendation*
The Board recommends that the Tribunal expedite its recruitment of appropriate information and communication technology personnel (para. 126).	Recruitment of key personnel has been completed, while the recruitment process for the remaining vacant posts is in the advanced stage.
The Tribunal agreed with the Board's recommendation that it develop, approve and update on a continuous basis an information and communication technology strategic plan to provide for changing circumstances in respect of the requirements of the Tribunal (para. 129).	An information technology strategic plan has been in place since January 2004.
The Board recommends that the Tribunal:	
(a) Should expedite the process of approving the disaster recovery plan;	
(b) Make staff fully aware of the contents of the plan and monitor full compliance;	The disaster recovery plan has been developed. The International Criminal Tribunal for Rwanda emergency recovery and business continuity plan has been approved by the Information Technology Committee.
(c) Retain a copy of the plan off-site and incorporate it into the change management arrangements to ensure that the plan is routinely updated when hardware and software changes occur (para. 131).	

International Criminal Tribunal for Rwanda

Organizational structure and post distribution for the biennium 2006-2007



* Redeployment.

Abbreviations: GS (PL), General Service (Principal level); GS (OL), General Service (Other level); GS (SS), General Service (Security Service); GS (LL), General Service (Local level); FS, Field Service.

Annex

Report on the outreach programme of the International Criminal Tribunal for Rwanda

I. Introduction

1. In its resolution 59/273, the General Assembly requested the Secretary-General to submit to the Assembly, at its sixtieth session, a report on the outreach programme of the International Criminal Tribunal for Rwanda. The present report sets out an overview of the work of the outreach programme since its inception in 1997.

2. The outreach programme is vital in garnering support for the Tribunal's mission. By virtue of the Tribunal's mandate, the Rwandan population, both within Rwanda and in the diaspora, is the most important target audience for information about the Tribunal and its work. Moreover, the statute of the Tribunal indicates that the prosecutions will "contribute to the process of national reconciliation" and that there is a "need for international cooperation to strengthen the courts and judicial system of Rwanda".

3. In order for the prosecution of the persons responsible for the 1994 genocide to contribute to national reconciliation in Rwanda, it is essential that the Rwandan people and, in particular, their political leaders and other opinion shapers, such as the media and non-governmental organizations, have an understanding of and confidence in the work of the Tribunal. To achieve this, the International Criminal Tribunal for Rwanda has established an outreach programme designed to reach, first and foremost, all sectors of Rwandan society and, second, the rest of the world. It is important to recognize that such an ambitious programme is by necessity multifaceted since the targeted audiences range from uneducated persons with little or no access to modern forms of media to academics and legal practitioners throughout the world. It is equally important to recognize that the outreach programme strives to provide much more than simply an awareness of the work of the Tribunal. Specifically, it includes in-depth specialized training in the international justice process. Its overarching goals of raising awareness and capacity-building are interwoven throughout the following five components (awareness-raising programmes, training of jurists, advocates and human rights practitioners, relationship with academic institutions, media programmes and conferences and exhibitions).

II. Awareness-raising programmes within Rwanda

4. The Tribunal has developed an awareness-raising programme using a range of communication strategies that vary according to the target audience in order to explain the Tribunal's work and its relevance to Rwanda. Particular attention has been given to the availability of printed materials, regular radio broadcasts and speakers in Kinyarwanda. The Tribunal's Umusanzu Information Centre in Kigali continues to be the flagship of the programme. The Tribunal intends to set up new centres in all provinces that will serve as focal points for provincial information activities about the Tribunal.

5. In order to bring the work of the Tribunal closer to the population, staff from the External Relations Section now regularly visit communes in Rwanda to show films and hold discussions on the work of the Tribunal in a more aggressive step to sensitize and inform the average citizen about the justice initiative taking place at a distance from them in Arusha.

III. Training of jurists, advocates and human rights practitioners

6. This activity is one of the cornerstones of the Tribunal's outreach programme. Capacity-building of the Rwandan legal practitioners includes seminars and workshops aimed at strengthening their knowledge in areas such as international humanitarian and criminal law, and their familiarity with the Tribunal's jurisprudence.

7. In March 2005, the Tribunal provided a series of training sessions to enhance the capacity of Rwandan legal librarians in accessing electronic databases to do research in legal sources and archives. Based on the success of those sessions, the senior legal and judicial officials of the Rwandan Government have requested that the Tribunal provide similar training to all librarians working in the Rwandan court system.

8. In an effort to ensure the smooth transfer of cases to national jurisdictions, the Tribunal's outreach programme includes planned working visits to its seat in Arusha for members of the Rwandan judiciary, members of Parliament, human rights practitioners and representatives of civil society.

IV. Relationship with academic institutions

9. The International Criminal Tribunal for Rwanda maintains very strong cooperation with various institutions of higher education. Two of the successful outreach projects are the internship and legal researchers programmes, which provide a number of promising young lawyers with hands-on experience in the core legal functions of the Tribunal. There is also a special programme for Rwandan law students. Under the special programme, six law students are provided with research bursaries which enable them to carry out thesis research in areas that are linked to the work of the Tribunal.

10. In partnership with the Centre for Conflict Management at the National University of Rwanda, the Tribunal is planning a national conference in July 2005 to focus on the contributions of the Tribunal to international justice, protection of human rights, establishing the rule of law and promotion of reconciliation in Rwanda.

V. Media programmes

11. The International Criminal Tribunal for Rwanda has made media relations a priority. One of the most effective ways of reaching the Tribunal's target audiences and thus of changing public opinion has been to use the mass media in and beyond

Rwanda. Access to informational materials has been provided to journalists from around the world to ensure live and up-to-date coverage of the Tribunal's judicial proceedings. Special training in legal reporting has been provided for Rwandan journalists and journalists from countries recovering from conflict.

12. To supplement its ongoing information and communication activities, the Tribunal will produce six movies annually, summarizing and contextualizing its completed trials. The content for the movies will be drawn from the vast archive of video and audio recordings of the Tribunal's proceedings. The movies will be part of the campaign to better inform Rwandans of the work of the Tribunal and to break the cycle of impunity by demonstrating visually that those most responsible for the genocide and its accompanying ideology of ethnic hatred have been judged and sentenced to punishment by an impartial tribunal.

VI. Conferences and exhibitions

13. In a bid to honour the memories of those who perished in the 1994 Rwanda genocide and to ensure that the world fights against impunity, the International Criminal Tribunal for Rwanda has participated in worldwide conferences and other events that are aimed at garnering more support among the international community for international justice and the bodies that contribute to its realization. In April 2005, senior officials of the Tribunal participated in a conference hosted by the New England School of Law in the United States of America to examine the jurisprudence of the Tribunal and to commemorate the tenth anniversary of its establishment.

14. A comprehensive exhibition of the Tribunal's work to date is planned for Rwanda in 2005. The exhibition will be presented in all provinces in Rwanda.

VII. Conclusion

15. Within the framework of Security Council resolutions 1503 (2003) of 28 August 2003 and 1534 (2004) of 26 March 2004 (the completion strategies), Member States should, as part of the completion strategy, assist in strengthening national jurisdictions to improve their capacity to prosecute cases of intermediate and lower ranks of accused transferred by the International Criminal Tribunal for Rwanda.

16. Member States should be sensitized in order to provide the Tribunal with adequate resources that will enable the sustainable implementation of the Tribunal's outreach programme in Rwanda.

17. The Government of Rwanda may wish to consider housing the provincial information centres that the Tribunal plans to set up outside Kigali.

18. An active outreach policy within such United Nations bodies as the United Nations Development Programme, the Office of the United Nations High Commissioner for Refugees, the United Nations Information Centres, the United Nations Children's Fund, the United Nations Fund for Population Activities and the World Health Organization should be pursued to fully support the Tribunal's outreach programme and completion strategy, especially in relation to witness support measures.

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Sixtieth session
Item 73 (b) of the provisional agenda*
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

Note by the Secretary-General

The Secretary-General has the honour to submit to the General Assembly, pursuant to General Assembly resolution 59/198, the report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities on its sixth session.

* A/60/150.

05-46396 (E) 280905

Report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities on its sixth session

I. Introduction

1. In its resolution 56/168, the General Assembly decided to establish the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, based on a holistic approach in the work done in the fields of social development, human rights and non-discrimination and taking into account the recommendations of the Commission on Human Rights and the Commission for Social Development.

2. In its resolution 59/198, the Assembly decided that the Committee should hold, within existing resources, prior to the sixtieth session of the Assembly, two sessions in 2005, of 10 working days each, to be held, respectively, from 24 January to 4 February and in July/August.

II. Organizational matters

A. Opening and duration of the sixth session

3. The Committee held its sixth session at United Nations Headquarters from 1 to 12 August 2005; it held 20 meetings.

4. The Division for Social Policy and Development of the Department of Economic and Social Affairs acted as the substantive secretariat, while the Disarmament and Decolonization Affairs Branch of the Department for General Assembly and Conference Management served as the secretariat of the Committee.

5. The sixth session of the Committee was opened by its Chairman, Don MacKay, Ambassador of New Zealand.

B. Officers

6. On 13 April 2005, the Committee held its organizational meeting, at which the following officers were elected to serve on its Bureau:

Chairman:

Don MacKay (New Zealand)

Vice-Chairpersons:

Jorge Ballestero (Costa Rica)
Ivana Grollová (Czech Republic)
Mu'taz Hyassat (Jordan)
Laoura Lazouras (South Africa)[1]

[1] Elected on 1 August 2005.

C. Agenda

7. At its 1st meeting, on 1 August 2005, the Committee adopted the provisional agenda for its sixth session, as contained in document A/AC.265/2005/L.3, as follows:

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Continuation of consideration of the proposed revisions and amendments to the draft text of the Working Group as contained in the reports of the Ad Hoc Committee on its third session (A/AC.265/2004/5, annex II), fourth session (A/59/360, annex IV) and fifth session (A/AC.265/2005/2, annexes II and III).
6. Conclusion of the Ad Hoc Committee at its sixth session.
7. Adoption of the report of the Ad Hoc Committee on its sixth session.

D. Documentation

8. The Committee had before it the following documents:

(a) Report of the Committee on its fifth session (A/AC.265/2005/2);

(b) Note verbale dated 18 July 2005 from the Permanent Mission of Morocco to the United Nations addressed to the Secretariat (A/AC.265/2005/3);

(c) Provisional agenda for the sixth session of the Committee (A/AC.265/2005/L.3);

(d) List of participants (A/AC.265/2005/INF/2);

(e) Proposed programme of work for the sixth session of the Committee (A/AC.265/2005/CRP.3);

(f) The concept of "special" measures in international human rights law: background document prepared by the Office of the United Nations High Commissioner for Human Rights (A/AC.265/2005/CRP.4);

(g) Legal capacity: background document prepared by the Office of the United Nations High Commissioner for Human Rights (A/AC.265/2005/CRP.5);

(h) Report of the Committee on its third session (A/AC.265/2004/5 and Corr.1);

(i) Report of the Working Group (A/AC.265/2004/WG.1);

(j) Report of the Committee on its fourth session (A/59/360).

III. Organization of work

9. At its sixth session, the Committee conducted informal discussions on articles 15, 15 bis, 24 bis, and 16 through 25 of the draft convention, in accordance with the programme of work adopted at its first meeting, on 1 August 2005. At its 20th meeting, on 12 August, the Committee heard the report of the Chairman on the progress made in the informal discussions held on the aforementioned draft articles (see annex II). The Committee decided to continue to review the draft convention at its seventh session.

IV. Recommendations

10. The Committee recommends that it continue its work in 2006 and that it hold, within existing resources, prior to the sixty-first session of the General Assembly, two sessions in 2006, of at least 10 working days and up to a maximum of 15 working days each, to be held, respectively, in January and August.

11. The Committee invites the members of its Bureau to hold intersessional meetings in regard to the preparation and organization of its seventh session, including the preparation of the provisional agenda, which should be issued at least four weeks before the seventh session.

12. With regard to accessibility and in accordance with General Assembly resolutions 58/246 and 59/198 and decision 56/474, the Committee reiterated the need for additional efforts to be made to ensure accessibility at the United Nations, with reasonable accommodation as regards facilities and documentation for all persons with disabilities.

13. In that regard, the Committee requests the Secretary-General to explore and implement innovative measures, within existing resources and in consultation with organizations of persons with disabilities and the Bureau, for the provision of selected documents in Braille. The Committee requests the Secretary-General to report to it at its seventh session on the implementation of this recommendation.

14. The Committee calls upon the organizations and bodies of the United Nations system, including the World Bank, to intensify their cooperation in support of the work of the Committee, as well as in anticipation of the implementation of the draft convention, and invites the Department of Economic and Social Affairs, in close collaboration with the Office of the United Nations High Commissioner for Human Rights, to take the necessary steps to secure this inter-agency collaboration.

V. Adoption of the report

15. At its 20th meeting, on 12 August, the Committee adopted the draft report on its sixth session (A/AC.265/2005/L.4), as orally amended.

Annex I

Additional non-governmental organizations accredited to the sixth session of the Committee

Abilities

Action on Disability and Development

Afghan Disabled Union

Autisme Europe

British Council of Disabled People

Consiglio Nazionale sulla Disabilità

Consortium of Humanitarian Agencies

Federation of and for People with Disabilities

Friends of Peace and Development Organization

Gambia Future Hands on Disabled People

Instituto Paradigma

International Stuttering Association

Iraqi Handicapped and Survivors Society

Lebanese Physical Handicapped Union

Leonard Cheshire International

Mine and Weapon Victims Association

Peace and Tolerance International Organization

Persons With Pain International

Society for Mental Health Care

Sudan Association for Combating Landmines

Union des personnes handicapées du Burundi

Annex II

Report by the Chairman

1. The Ad Hoc Committee held informal and formal meetings from 1 to 12 August 2005 on draft articles 15, 15 bis, 24 bis, and 16 through 25.

2. The text of the draft convention prepared by the Working Group (A/AC.265/2004/WG.1, annex I) formed the basis for the discussion, which took into account various amendments and proposals made during previous meetings, as contained in the compilation document.

3. The aim of the discussions was to clarify as many of the issues concerning the draft articles as possible. The present report indicates areas of general agreement on language and areas where there remains a divergence of views that will need to be resolved subsequently. Where general agreement was reached, it was on the clear understanding that it was without prejudice to the ability of delegations to reconsider the draft articles at a subsequent stage, when the shape of the overall convention became clear.

4. It was again clear from the discussion that there are overlaps and duplications between provisions in some articles, which deal with similar matters, and this will need to be rationalized. There were also suggestions for restructuring and streamlining some articles, which will need to be taken into account.

5. Many of the draft articles deal with economic, social and cultural rights, which are to be realized to the maximum of available resources; that is, they are subject to the doctrine of progressive realization. Some of those draft articles also cover civil and political rights, which are of immediate effect and to which the doctrine of progressive realization does not apply. This can make it difficult to insert a reference in the chapeaux to those draft articles saying that they shall be progressively implemented. It was agreed that the matter needed to be dealt with in the convention, perhaps by a generic provision in draft article 4.

6. The issue of whether the convention should "recognize" or "ensure" a right, and related questions around similar language, arose several times during these negotiations. The Committee will need to look at making these terms consistent throughout the convention. Similarly, the Committee will also need to address proposals that were made throughout the text to insert language such as "on an equal basis with others" and "equitable".

Summary of discussions on the structure of the draft convention

7. The Committee considered the structure of the draft convention in general terms. A number of delegations suggested that certain draft articles should be shifted elsewhere in the draft convention in order to place them within a more suitable or logical grouping of draft articles.

8. It was agreed that it would be largely unhelpful to try to place a rigid demarcation in the draft convention between those draft articles dealing with "civil and political" rights and those dealing with "economic, social and cultural" rights, especially as many of the draft articles were of a hybrid character. It was also

important to avoid creating the appearance of a "hierarchy" of rights in the draft convention.

9. There was general agreement that the articles in the draft convention should be clearly delineated and avoid unnecessary repetition.

10. The Committee considered that "titles" could contribute to the accessibility of the draft convention. This issue was to be given further thought.

Discussion of draft articles

Draft article 15

11. There was general support that there should be an article in the convention on this issue, and that the Working Group text was a good basis for discussion. There was general support for the essence of draft article 15, that persons with disabilities should be free to choose their living arrangements on an equal basis with others. It was also noted that the key to this draft article was the right of every person with disabilities to live in the community.

Chapeau

12. There was support to redraft the chapeau as follows:

> "States Parties to this Convention shall take effective and appropriate measures to [enable/facilitate] full enjoyment by persons with disabilities of their freedom of choice, independent living and full [inclusion/participation] in the community, including by ensuring that: [...]"

13. The Committee noted that the use of the word "facilitate" might not be linguistically correct, and that this would need to be looked at again when draft article 15 was next discussed.

14. There was some support for a proposal to redraft the chapeau so that it drew on article 12 of the International Covenant on Civil and Political Rights, and incorporated the right of persons with disabilities to liberty of movement and freedom to choose their residence. Others, however, argued that the proposal did not take into account the limits on this right that were contained in the Covenant.

Subparagraphs (a) and (b)

15. There was support to merge subparagraphs (a) and (b), with slight amendment, so that they read:

> "(a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in [an institution or] a particular living arrangement."

16. Some delegations objected to the inclusion of any reference to "institutions", and proposed the deletion of the substance of subparagraph (b) on the basis that it was covered under either draft article 10 or in the substance of subparagraph (a). Other delegations proposed to append paragraph (b) with clauses such as "except where necessary" or "subject to the provisions of article 10". It was noted, however,

that such language went beyond the situations set out in draft article 10, and would undermine the approach taken in that draft article.

17. There was general agreement that there was an element of duplication with draft article 10, and that when that article was next discussed it should be ensured that the elements of draft article 15, subparagraph (b), were adequately covered to avoid the duplication.

Subparagraphs (c), (d) and (e)

18. There was a proposal to insert a new subparagraph (c) bis, which would address the manner in which support services were to be provided. The Committee noted that this proposal replicated elements that appeared in the preamble and under draft article 4, although there might also be a place for inclusion in the context of this draft article.

19. There was general agreement that the phrase "and facilities" should be inserted in subparagraphs (d) and (e) after the word "services".

20. It was noted that draft article 15 (e), with the additional language of "and facilities in a format that is accessible to and in plain language" could be considered in future discussion on draft article 19.

21. The Committee noted that subparagraphs (c), (d) and (e) related to economic, social and cultural rights, and as such were progressively realizable. While it had been previously agreed that draft article 4 should include the concept of progressive realization, it was noted that that did not necessarily preclude the use of progressive realization language in draft article 15 or in other articles containing hybrid or ambiguous provisions. The issue of how to address economic, social and cultural rights in the draft convention was an issue still to be properly discussed.

22. A view was expressed that in draft article 15, subparagraphs (a)-(e) were not helpful in that by "listing" measures that States Parties must take, it could be perceived as excluding other, unlisted, measures. The Committee noted that the subparagraphs were illustrative only, and not an exclusive list.

Draft article 15 bis

23. The Committee noted that while all women are covered under the Convention on the Elimination of All Forms of Discrimination against Women, that Convention does not specifically mention women with disabilities and there are no other legally binding texts that do. There was general agreement in the Committee, therefore, to include in the Convention the principle of gender equality. All delegations agreed that the Convention needed to adequately address the situation of women with disabilities.

24. There were different views expressed, however, on how best to achieve this aim in the convention. Some delegations supported the proposal for a stand-alone article. Others suggested that a reference in the preamble, combined with language in the general principles, the general obligations or the monitoring section, best met the aim. Others proposed to mainstream gender issues throughout thematic articles of specific relevance to women. Others supported both a separate article and mainstreamed references.

25. The Chair noted that delegations should bear in mind that any programme of action to implement the convention would be an additional place to deal with the situation of those that faced additional disadvantage due to discrimination on intersecting grounds.

26. The issue of women with disabilities was referred to the facilitator (Theresia Degener, Germany) to explore further the best approach and examine where and if there were gaps in the convention that needed to be addressed from a gender perspective.

Draft article 16

27. There was general agreement in the Committee that some specific references to children with disabilities were needed in the draft convention. There was also general agreement that draft article 16 did not add much substance to what was already contained in article 23 of the Convention on the Rights of the Child.

28. Views varied in the Committee on how best to include children with disabilities in the draft convention. Proposals included retaining a separate (but redrafted) article on children; a reference in the preamble with a general statement in a draft article of horizontal application (such as draft articles 2, 4 or 25) or mainstreaming references in relevant thematic draft articles.

29. The issue of children with disabilities was referred to the facilitator (Josephine Sinyo, Kenya) to explore further the best approach.

Draft article 17

30. The Committee noted that education laid the foundation for the participation by persons with disabilities in society as a whole throughout their lives, and that inclusiveness was one of the main themes of the article (and of the convention more generally). There was a need to balance that with the other main theme of education options for persons with disabilities.

Paragraph 1

31. There was general agreement in the Committee that the obligations of States in this draft article should not be qualified, and it was noted that the issue of progressive realization of economic, social and cultural rights could be dealt with in an earlier general article that applies to the whole convention, including this paragraph.

32. There was otherwise general acceptance of the first sentence of paragraph 1 of the Working Group text. There was also general support to include, as the second and third sentences of paragraph 1, a proposal on inclusiveness in the general education system.

33. There was general agreement to replace "children with disabilities" with "persons with disabilities" throughout this draft article, except in subparagraph 1 (d) of the Working Group text, where the word "child" would continue to be more appropriate.

34. There was also general agreement to include the word "creativity" in subparagraph 1 (c).

35. The Committee noted the important reference to the "best interests of the child" in subparagraph 1 (d), and agreed that the subparagraph should not use weaker language than was employed in the Convention on the Rights of the Child. But there were divergent views on whether article 17 was the appropriate place for such a reference. There were also divergent views on whether to retain the reference to "individualized education plans" from the Working Group text. Some delegations supported the idea, but could not agree as to how it should be expressed. Other delegations wanted the reference deleted.

36. Following the discussion, paragraph 1 currently reads:

> "1. States Parties recognize the right of all persons with disabilities to education with a view to achieving this right [progressively and] on the basis of equal opportunity. States Parties commit themselves to the goal of inclusiveness of their general education systems. Where exceptionally the general education system does not adequately meet the needs of persons with disabilities, States Parties shall take appropriate measures to ensure [quality/effective] alternative forms of education, bearing in mind the goal of full inclusion. The education of persons with disabilities shall be directed to:
>
> "(a) the full development of the human potential and sense of dignity and self worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
>
> "(b) enabling all persons with disabilities to participate effectively in a free society;
>
> "(c) the development of the personality, creativity, talents and mental and physical abilities of persons with disabilities to their fullest potential;
>
> "(d) the best interests of the child, which shall be of primary consideration, [in particular by individualizing education [plans] [and methods]] [...]"

Paragraph 2

37. On subparagraph 2 (c), there was some support to add the word "secondary". In doing so, the Committee noted that the reference, which now reads "free and compulsory primary or secondary education", did not create any new obligation for States to provide free and compulsory secondary education. Rather, the provision is a non-discrimination one, and means that if a State did provide free and compulsory secondary education to the general population, then it should also be provided to persons with disabilities.

38. Paragraph 2 currently reads:

> "2. In realizing this right, States Parties shall ensure:
>
> "(a) that all persons with disabilities [choose inclusive and accessible quality/effective education] [have access to quality/effective education in the general education system] [throughout their lives] [to the extent possible] in the communities in which they live (including access to early childhood and pre-school education);
>
> "(b) required support, including specialized training of teachers, school counsellors and psychologists, an accessible curriculum, an accessible

teaching medium and technologies, alternative and augmentative communication modes, alternative learning strategies, accessible physical environment or other reasonable accommodations to ensure the full participation of students with disabilities;

"(c) ensure that no person with disabilities is excluded from free and compulsory primary or secondary education, or denied access to education, on account of their disability."

Paragraph 3

39. There was general support to replace paragraph 3 of the Working Group text. Some delegations favoured broadening the coverage of this paragraph to include all persons with disabilities. But the Committee accepted that this might be used as a basis for excluding all children with disabilities from the general education system. There was general support, however, that children with particular disabilities, such as blind, deaf and deaf-blind children, may need to commence their learning in an environment that is more specific to their needs. This would allow them to gain maximum benefit from a fully inclusive general education system, and ultimately more effectively participate in society.

40. One proposal, that received some support, reads:

"3. States Parties shall ensure that blind, deaf and deaf-blind children and young persons have the right to choose education in their own groups and settings, where they shall be provided with the same level of support and standards, consistent with other provisions in this article."

Paragraph 4

41. The Ad Hoc Committee debated the issue of acquisition of life skills. While some delegations supported including this issue in a separate draft article 17 bis, most delegations were in favour of including the concept in this paragraph. Many delegations also emphasized the importance of training and education.

42. The Ad Hoc Committee also agreed to use the same language on types of communication that was proposed during the discussion of draft article 13.[a]

43. Paragraph 4 currently reads:

"4. States Parties shall ensure that children with sensory and communication disabilities may choose to be taught sign language or Braille, as appropriate, and to receive the curriculum in sign language, or Braille, or augmentative alternative communication or other accessible means, modes and formats of communication. States Parties shall take appropriate measures to ensure [quality/effective] education to students with sensory disabilities by ensuring the employment of teachers who are fluent in sign language or Braille. States Parties shall take appropriate measures to ensure that people with disabilities have the opportunity to learn the life, social development, orientation and mobility skills that are required for people with disabilities to participate on an equal basis with others as members of the community."

[a] See A/AC.265/2005/2, annex II, para. 69.

Paragraph 5

44. There was general agreement to retain paragraph 5 of the Working Group text.

45. Paragraph 5 currently reads:

> "5. States Parties shall ensure that persons with disabilities may access general, tertiary education, vocational training, adult education and lifelong learning on an equal basis with others. To that end, States Parties shall render appropriate [assistance/support] to persons with disabilities."

46. The draft article was referred to the facilitator (Rosemary Kayess, Australia) for further discussion.

Draft article 18

47. There was general agreement to the importance of this draft article. There was also general agreement that its provisions needed to be strengthened to better reflect the stronger commitments found in similar provisions of the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women.

48. The Committee noted that General Comment 23 of the Committee on the Elimination of Discrimination against Women provided some useful guidance in relation to this article.

Subparagraph (a)

49. There was general support to strengthen the chapeau of subparagraph (a) by replacing the opening phrase "actively promote an environment in which" with the phrase "ensure that".

50. There was general support to change the term "citizens" to "persons" in subparagraph (a) and subsequent subparagraphs. This would be consistent with the term used in the Convention on the Elimination of All Forms of Discrimination against Women, and also reflect that in many States some non-citizens (such as permanent residents) have the right to vote and therefore no lesser standard should be accepted for persons with disabilities.

51. To ensure that there would be no expectation that States should grant extra political rights to persons with disabilities that others did not enjoy, the Committee agreed to add the phrase "on an equal basis with others". That would ensure that no State would be obliged to give non-citizens with disabilities a right to vote if non-citizens in general would not be entitled to vote.

52. A proposal to add a phrase "and materials" to the end of the chapeau received no opposition. The phrase is intended to clarify that all aspects of voting and participation in political life should be accessible.

53. Following the discussion, subparagraph (a) now reads:

> "(a) ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others [and in accordance with national laws outlining political rights for all people], directly or through freely chosen representatives, including the right and opportunity of

persons with disabilities to vote and be elected, by ensuring that voting procedures, facilities and materials: [...]"

Subparagraphs (a) (i), (a) (ii) and (a) (iii)

54. There was general support on the inclusion of these three subparagraphs, although a number of technical issues were raised.

55. In particular, the Committee noted that a secret ballot might not always be technically possible for some persons with disabilities. Wording such as "in accordance with the law" might help, and the phrase "without intimidation" might also be an important qualifier. Such language could help protect people with disabilities who are not able to engage in a completely secret ballot.

56. It was generally agreed that any assistance provided to people with disabilities should only be at their request and provided by someone they trust. It was also noted that political rights are broader than the right to vote in elections and several delegations wished to express specifically the right to hold office and participate effectively in the political process.

57. There was also agreement to make some minor changes to make the language consistent with the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Civil and Political Rights.

58. Following the discussion, the subparagraphs now read:

"(i) are appropriate, accessible and easy to understand and use;

"(ii) protect the right of persons with disabilities to vote by secret ballot, [in accordance with law and without intimidation] in elections, and public referenda; to stand for elections and to hold office and perform all public functions at all levels of government;

"(iii) guarantee the free expression of the will of persons with disabilities as electors and to this end, where necessary, allow assistance in voting on their request and by a person of their own choice;"

Subparagraph (b)

59. The Committee considered a number of linguistic and structural proposals that strengthened and broadened subparagraph (b), and also brought it more closely into alignment with the Convention on the Elimination of All Forms of Discrimination against Women.

60. In particular, there was general agreement to delete the term "as appropriate" from subparagraph (b), as it might be misinterpreted as a qualifier. There was a preference by the Committee for the broader term "public affairs", rather than "public administration", in order to be consistent with other international treaties. There was general agreement to add the word "international" to the settings in which persons with disabilities could participate.

61. Following the discussion, subparagraph (b) now reads:

"(b) [actively promote ... an environment in which] [ensure that] persons with disabilities, without discrimination and on a basis of equality between

men and women, can effectively and fully participate in the conduct of public affairs, and shall encourage their participation in public affairs, including to:

"(i) participate in non-governmental organizations and associations concerned with the public and political life of the country, including the activities and administration of political parties;

"(ii) form and join organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels;"

Subparagraph (c)

62. The Committee noted that there was general agreement at its fourth session that the elements of subparagraph (c) should be consolidated in draft article 4, paragraph 2, along with several other provisions from other paragraphs that have general application across the whole convention. Some delegations noted at that meeting, however, that the subparagraph needed to be retained in the context of political participation. The Committee noted that these elements should be considered at a future meeting from the perspective of the balance of text and repetition.

63. Divergent views were expressed on the phrase "in particular those concerning issues relating to persons with disabilities". Some delegations proposed to delete the phrase in order to broaden the paragraph to take into account participation in matters wider than those concerning disability issues. Other delegations, however, considered that there was a need to ensure the primacy of the voice of persons with disabilities in relation to disability issues.

64. Participation in the implementation and evaluation of policy, in addition to decision-making, was also emphasized by several States, in particular in relation to development programmes.

Draft article 19

65. There was considerable discussion in the Committee of the relationship and overlap between draft articles 19 and 20, as well as, to a lesser extent, draft articles 13 and 15.[b] The Committee noted that draft articles 19 and 20 are essentially two sides of the same coin. There was general support to merge the two draft articles.

66. A number of delegations pointed out that "accessibility" was not just about access to buildings. Accessibility also related to, for example, accessible information. It was important to ensure that this draft article did not slant towards one type of accessibility. There was also support to include accessibility as a principle in draft article 2.

Paragraph 1

67. There was general support to redraft the beginning of paragraph 1 to delete superfluous text, in order to make the goal of this draft article clear.

[b] See A/59/360, annex II, paras. 9 and 10.

68. The Committee noted that the words "the focus of these measures" in the last line of the chapeau might have a limiting effect. Delegations agreed to give this issue more thought.

Subparagraphs 1 (a) and (b), 2 (a), (b), (c) and (d)

69. There was considerable discussion on the question of whether subparagraphs 1 (a) and (b) and 2 (a), (b), (c) and (d), which generally refer to public buildings, facilities and services, should also extend to privately owned or developed buildings, facilities and services intended for public use. There was general agreement that access to buildings should be viewed from a "who uses the building" perspective, rather than from a "who owns the building" perspective.

Subparagraphs 2 (e) and 2 (g)

70. The Committee noted the general agreement at the fourth session to incorporate these two paragraphs into paragraph 1 and paragraph 2 of draft article 4, respectively.[b]

71. Draft article 19 currently reads:

> "1. States Parties to this Convention shall take appropriate measures to ensure accessibility for persons with disabilities by identifying and eliminating obstacles to the built environment to transportation, information and communications, including information and communications technologies, and other services, in order to ensure the capacity of persons with disabilities to live independently and to participate fully in all aspects of life. [The focus of] these measures shall include, inter alia: [...]
>
> "(b) the construction and renovation of public buildings, roads and other facilities for public use, including schools, housing, medical facilities, indoor and outdoor facilities and publicly owned workplaces;
>
> "(c) the development and remodelling of public transportation facilities, communications and other services, including electronic services.
>
> "2. States Parties shall also take appropriate measures to:
>
> "(a) provide in public buildings and facilities signage in Braille and easy-to-read and understand forms;
>
> "(b) provide forms of live assistance and intermediaries, including guides, readers and sign language interpreters, to facilitate accessibility to public buildings and facilities;
>
> "(c) develop, promulgate and monitor implementation of minimum national standards and guidelines for the accessibility of public facilities and services;
>
> "(d) [encourage/ensure] private entities that provide public facilities and services to take into account all aspects of accessibility for persons with disabilities;
>
> "(f) promote universal design and international cooperation in the development of standards, guidelines and assistive technologies [...];

"(h) provide training for all stakeholders on accessibility issues facing persons with disabilities."

72. The draft article was referred to the facilitator (Damjan Tatic, Serbia and Montenegro) for further discussion.

Draft article 20

73. The Committee noted that there were three important issues under consideration in the discussion of this article: accessibility in the broadest sense (as dealt with in draft article 19); personal mobility of the individual; and liberty of movement.

74. The Committee also noted that there were considerable overlaps between draft article 20 and draft article 19, along with elements of other draft articles of the Convention. There was general support, therefore, to move elements of draft article 20 to other articles and to delete draft article 20 altogether. In that regard, the Committee noted that there was general agreement at its fourth session that subparagraph (c) should be incorporated into draft article 4.[b]

75. Some delegations were, however, concerned that deletion of the article might result in the loss of essential elements.

76. On the issue of liberty of movement, the Committee noted that this was a right guaranteed under the International Covenant on Civil and Political Rights. There was general agreement that that right should not be ignored. Some delegations noted instances in which the liberty of movement of persons with disabilities was adversely affected by, for example, being denied birth registration or a passport. Language on this issue had been proposed and would need to be further considered by the Committee.

Draft article 21

77. There was general agreement in the Committee that draft article 21 should address the right to health and that a separate draft article 21 bis should address habilitation and rehabilitation. The Committee did not resolve, however, whether to retain medical, or health-related, rehabilitation in article 21, or to delete all references to it and deal with it in article 21 bis. The Committee agreed to consider this issue, and the proposed texts for article 21 bis further, at a later date.

78. It was also generally agreed that the concept of health, as defined by the World Health Organization, was a very broad one and that this needed to be reflected in the text (or a footnote). That could be achieved by using the descriptive language of the International Covenant on Economic, Social and Cultural Rights.

79. A proposal was made that persons with disabilities should not be denied food, water or life support, which was supported by a number of delegations.

Chapeau

80. There was some support to strengthen the chapeau by replacing the word "recognize" with "guarantee"

81. The chapeau currently reads:

> "States Parties [recognize/guarantee] that all persons with disabilities have the right to the enjoyment of the highest attainable standard of physical and mental health without discrimination on the basis of disability. States Parties shall ensure no person with a disability is deprived of that right, and shall take all appropriate measures to ensure access for persons with disabilities to [affordable/free] health and [medical/health-related rehabilitation services]. In particular, States Parties shall: [...]"

Subparagraphs (a) to (m)

82. There was broad agreement that the subparagraphs should be strengthened by the deletion of qualifying words such as "strive", although there was also limited support for retaining the idea of progressive realization in the text.

83. It was also generally agreed that in many of the subparagraphs there was a great deal of duplication of material contained in other articles in the draft convention text and that others were too prescriptive. There were consequently many proposals to streamline or delete subparagraphs including:

(a) Subparagraph (d), which was too prescriptive and, in any case, if retained, more properly would belong in the new proposed draft article 21 bis on rehabilitation;

(b) Subparagraphs (f) and (m), on which there was general agreement at the fourth session to consolidate into draft article 4;[b]

(c) Subparagraph (g), on the grounds that the Committee agreed at its fourth session to consider general language on the training of professionals dealing with persons with disabilities, but without prejudice to its inclusion or ultimate placement in the text;[c] and

(d) Subparagraph (l), which not only replicates part of subparagraph (j), but also is covered in article 14.

84. The Committee noted that where text was to be deleted or merged, there was a need to ensure that important elements were not lost and were incorporated into the text when the same issues were considered again under other articles. It would be necessary, for example, to reconsider whether the confidentiality of medical records was adequately covered under draft article 14.

85. Some delegations proposed the deletion of the words "including sexual and reproductive health services" from subparagraph (a), but there was broad support for retaining it. The Committee noted that this phrase was not intended to alter or prejudice the general policies of Governments in regard to family planning or related matters, to the extent that these were permitted by national legislation of general application. The phrase was a statement on the right to be free of non-discrimination, and its effect was that persons with disabilities would need to be treated on an equal basis with others in this area.

86. On subparagraph (a), there was general agreement to include the concept of population-based public health programmes, and general support to replace the word "citizens" with "persons".

87. On subparagraph (b), there was support to include the concept of early detection and treatment.

88. There was also support for adding "rural areas" after "people's own communities" in subparagraph (c).

89. There were divergent views on whether subparagraph (e) should deal with prevention of secondary disabilities, the prevention of disabilities more generally, or be deleted entirely on the grounds that its provisions were already covered adequately by preceding subparagraphs.

90. There was also some support for proposals to add references to the compatibility of research with respect for human rights and the protection of human life to subparagraph (f), if this subparagraph were retained.

91. There was also general support to merge subparagraphs (h), (i) and (j).

92. Some delegations considered that subparagraph (k) should be deleted because the issue would be covered by draft article 12 bis. Other delegations preferred to retain it here.

93. Following the discussion, paragraphs (a)-(j) of the text read:

"(a) provide persons with disabilities with the same range and standard of [affordable/free] health [and rehabilitation services] as provided other persons, [including sexual and reproductive health services] and population-based public health programmes;

"(b) provide those health and [medical/health-related rehabilitation] services needed by persons with disabilities specifically because of their disabilities [including early identification and intervention as appropriate];

"(c) endeavour to provide these health and [medical/health-related rehabilitation] services as close as possible to people's own communities [and in rural areas] [...];

"(e) [provide programmes and services to prevent and protect against [secondary] disabilities, including among children and the elderly;]

"(f) [encourage research and the development, dissemination and application of new knowledge and technologies that benefit persons with disabilities [that are compatible with the respect for human rights and the protection of human life]] [...];

"(h/i/j) require health professionals to provide care of the same quality to persons with disabilities as to others by, where necessary, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation, in consultation with other concerned parties, of ethical standards for public and private healthcare."

94. The draft article was referred to the facilitator (Mu'taz Hyassat, Jordan) for further discussion.

Draft article 22

95. There was general agreement by the Committee to take a rights-based approach to this article. The Committee also noted that the text of the Convention

should not derogate from existing international instruments, such as International Labour Organization conventions.

96. The Committee expressed a general preference for States to recognize the importance of access by persons with disabilities to the open labour market, in order to empower and enable them to participate fully in society. General concern was expressed about the potential for exploitation of persons with disabilities. The balance of views in the Committee on sheltered workshops was that such settings were undesirable because of the potential for segregation from the community and their conditions of employment. There was agreement that there should be further consideration of that point.

97. The Committee noted that there was a degree of overlap between this article and articles 17, 19 and 21 bis (habilitation or rehabilitation for the purposes of work).

Chapeau

98. There was general agreement that the chapeau should deal with general principles, and that the subparagraphs should deal with measures to realize those principles. With that in mind, the Committee agreed to delete subparagraph (a) and to incorporate its concept in the chapeau. There was also considerable support for the idea that employment of persons by the public sector should be mentioned, because of the role the public sector should play in setting an example for the private sector, and that this idea could be included in the chapeau. This could allow for the deletion of subparagraph (i).

99. The chapeau now reads:

> "States Parties recognize the right of persons with disabilities to work, [on an equal basis with others]; this includes the opportunity to gain a living by work that they freely choose or accept in a labour market and work environment that is open, inclusive and accessible to persons with disabilities, [with a view to promoting equal opportunity and treatment of persons with disabilities,] and protecting them from poverty. States Parties [shall set an example of employment of persons with disabilities] and take appropriate steps to safeguard and promote the realization of this right, including measures to:"

Subparagraph (c)

100. There was general support for dividing subparagraph (c) into two subparagraphs, the first dealing with paid employment and the second with self-employment.

101. Subparagraph (c) now reads:

> "(c) promote [equal] employment opportunities and career advancement for persons with disabilities in the open labour market, as well as assistance in finding, obtaining and maintaining [and returning to] employment;
>
> "(c) bis promote opportunities for self-employment, entrepreneurship and starting one's own business."

Subparagraph (d)

102. There was no agreement on the issue of quotas in subparagraph (d). However, there was support for using less specific language on affirmative action or special measures.

103. Subparagraph (d) now reads:

> "(d) encourage employers to hire persons with disabilities, such as through affirmative action programmes, incentives [and other appropriate policies, support and special measures];"

Subparagraph (e)

104. There was general support to amend the text of subparagraph (e) so that it now reads:

> "(e) ensure that reasonable accommodation is provided to persons with disabilities in the workplace;"

Subparagraph (f)

105. Some delegations proposed that this paragraph could be deleted, while others supported its retention.

Subparagra, h (g)

106. The Committee noted the possibility that subparagraph (g) could either be merged with subparagraph (c) or deleted and covered under p oposed draft article 21 bis.

Subparagraph (h)

107. There was support for including references to conditions of hiring or recruitment and for safe and healthy working conditions in subparagraph (h). In view of its importance, there was also firm support for the placement of this subparagraph immediately under the chapeau as a new subparagraph (a).

108. Subparagraph (h), now subparagraph (a), currently reads:

> "(a) protect through legislation persons with disabilities with regard to conditions of recruitment, hiring and employment, continuance of employment, career advancement, working conditions, including equal remuneration for work of equal value and equal opportunities, safe and healthy working conditions, and the redressing of grievances, and to ensure that persons with disabilities are able to exercise their labour and trade union rights;"

Subparagraph (j)

109. There was general support for deleting subparagraph (j) and to consider the first part of it under draft article 5.

110. The draft article was referred to the facilitator (Dan Oren, Israel) for further discussion.

Draft article 23

111. There was general agreement that the order of paragraphs 1 and 2 should be reversed, so that "adequate standard of living" (para. 2) would be addressed ahead of "social security". There was also a suggestion to create two separate draft articles out of draft article 23, one on an "adequate standard of living", and the other on "social security". The Committee agreed to reflect further on this proposal.

Paragraph 1

112. The Committee discussed options to replace or complement "social security" in order to find a broader phrase to encapsulate the assistance provided by a State, and to ensure that there was no discrimination against persons with disabilities in the provision of that assistance. Suggestions included "social insurance" (currently used in this draft article), "social assistance", "social support", "social safety nets" and "social protection". The Committee noted that further reflection on this issue was required.

113. The paragraph, now paragraph 2, currently reads:

> "2. States Parties recognize the right of all persons with disabilities to [social security, including social insurance/social assistance/social support/social safety nets/social protection], and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures to: [...]"

Subparagraph (a)

114. Proposals for this subparagraph included specifying that the services, devices and other assistance referred to in this provision should be offered "free of charge", a proposal that had also been made in the context of other draft articles. There was resistance to this specific proposal, although it was agreed that delegations were committed to the concept of "affordability".

115. There was general support to replace "necessary" with "appropriate" in this subparagraph, in order to ensure consistency with the rest of the draft convention.

116. Subparagraph (a) currently reads:

> "(a) ensure access by persons with disabilities to appropriate services, devices and other assistance for disability-related needs;"

Subparagraph (b)

117. There was general support for the deletion of the references in this subparagraph to particular groups of persons with disabilities, and it was noted that the incorporation of "women" and "girls" (children) into the draft convention was being examined by the facilitators on those issues. The difficult situation of many aged persons with disabilities was also highlighted, but there was no agreement as to how this issue should be handled.

118. The Committee noted that taking into account the needs and perspectives of persons with disabilities was addressed in draft article 4, paragraph 2. It was agreed that the Committee needed to ensure that the draft convention did not unduly

duplicate coverage of specific issues, and there was general support to delete that phrase.

119. Subparagraph (b) currently reads:

> "(b) ensure [equal] access by persons with disabilities, [particularly women and girls with disabilities and the aged with disabilities,] to [social security/social assistance/social support/social safety net/social protection] programmes and poverty reduction strategies;"

Subparagraph (c)

120. Many delegations suggested that the defining element of this subparagraph was the situation of persons with disabilities living in poverty.

121. There was some support for "severe and multiple" to be deleted from this subparagraph, largely because of the difficulty of defining "severe" and "multiple" and of identifying which categories of persons with disabilities they encompassed. The provision would then simply refer to "persons with disabilities". This was not an unopposed view, however, and other proposals included referring "in particular" to "severe and multiple" disabilities.

122. There was general support to retain the reference to "families" in this subparagraph, as families were particularly relevant in the context of this draft article.

123. Subparagraph (c) currently reads:

> "(c) ensure access by persons with disabilities, and their families, living in situations of poverty to assistance from the State to cover disability-related expenses (including adequate training, counselling, financial assistance and respite care), which should not become a disincentive to develop themselves;"

Subparagraph (d)

124. There was general support to replace "governmental" with "public". It was also agreed that the rest of this subparagraph, from "including", would be deleted.

125. Subparagraph (d) currently reads:

> "(d) ensure access by persons with disabilities to public housing programmes;"

Subparagraph (e)

126. There was general support to delete this subparagraph on the basis that it had the potential to be unduly prescriptive. Some delegations, however, wanted to retain it, and there was a suggestion that this subparagraph should be limited to "disability-related expenses".

Subparagraph (f)

127. The Committee noted that in some countries, and under some religions, life insurance was not looked on favourably. If this subparagraph was to be retained, there was a need to ensure that it did not in any way imply or create a "right to life insurance" in those countries where it was not permitted.

128. Some delegations suggested that the reference to "health insurance" under this subparagraph properly belonged under draft article 21. This issue needed to be considered further by the Committee in order to ensure an integrated text.

Paragraph 2

129. In relation to paragraph 2, some delegations suggested that the "listing" of elements of an adequate standard of living was not necessarily helpful, and could thus be deleted. Other delegations, however, supported such a list, and in particular supported the reference to access to clean water.

130. The paragraph, now paragraph 1, currently reads:

> "1. States Parties recognize the right of all persons with disabilities to an adequate standard of living for themselves and their families, [including adequate food, clothing, housing [and access to clean water]], and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right [without discrimination on the basis of disability]. [States Parties shall ensure that persons with disabilities have access to clean water on an equal basis with others]."

Draft article 24

131. There was unanimous support for this article, and many valuable proposals to strengthen it need to be reflected on further.

132. There was general support to deal with the issues of participation in leisure, sport and recreation, and participation in cultural life separately, but both in the same article.

133. There was general support to include a number of proposals to broaden the scope of the article. These included tourism and the right of children with disabilities to play.

134. There was a proposal to include a provision on participation in religious life in draft article 24 or elsewhere in the text. The general feeling, however, was not to include such a provision in this article.

Paragraph 1 chapeau

135. There was general support to include the phrase "on an equal basis with others" in the chapeau of paragraph 1, so that it now reads:

> "1. States Parties recognize the right of all persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:"

Subparagraph (a)

136. There was general support to replace the word "community" with "society" in the subparagraph. There was general agreement that this subparagraph is about enjoyment of a right, rather than being a measure to implement a right. There was general agreement, therefore, to a proposal to make the subparagraph 1 bis rather than 1 (a).

137. It now reads:

"1 bis. States Parties shall also take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their benefit, but also for the enrichment of society."

Subparagraphs (b), (c) and (d)

138. There was general support to shorten these subparagraphs and to include text related to tourism. They now read:

"(b) enjoy access to cultural materials in all accessible formats;

"(c) enjoy access to television programmes, films, theatre, and other cultural activities, in all accessible formats;

"(d) enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and the tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance;"

Paragraph 2

139. A proposal to replace "intellectual property rights" with "copyright" received strong support, but there was no general agreement.

140. The text now reads:

"2. States Parties shall take all appropriate steps to ensure that laws protecting [intellectual property rights] [copyright] do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials, while respecting the provisions of international law."

Paragraph 3

141. There was no agreement on this paragraph, with some delegations proposing to delete it and others to retain it.

142. A compromise formula was proposed that gained support from those who supported retention of the paragraph. That proposal reads:

"3. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture."

Paragraph 4 chapeau

143. There was general support to amend the chapeau to make it clear that the paragraph does not refer to an existing right to participate in sport and leisure activities. It now reads:

"4. With a view to enabling persons with disabilities to participate on an equal basis as others in recreational, leisure and sporting activities, States Parties shall take appropriate measures to:"

Subparagraphs (a), (b), (c) and (d)

144. Some delegations proposed to remove the word "mainstream" from subparagraph (a) so that disability-specific activities would not be ruled out. Others thought, however, that because an overall aim of the convention is the inclusion of persons with disabilities in the mainstream, the deletion would not be appropriate. An alternative approach was suggested to include a reference to these disability-specific activities in subparagraph (b).

145. There was general support for inclusion of the concept of participation at local or municipal levels.

146. The subparagraphs currently read:

"(a) encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

"(b) ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and encourage the provision of appropriate instruction, training and resources in support that is available to other participants;

"(c) ensure that persons with disabilities have access to sporting and recreational and tourism venues, and that persons with disabilities have equal access to participating in sporting activities within the education system;

"(c) bis children with disabilities have equal access to participation in play, recreation, and leisure and sporting activities, including those in the school system;

"(d) ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities."

147. The draft article was referred to the facilitator (Monthian Buntan, Thailand) for further discussion.

Draft article 24 bis

148. The facilitator for draft article 24 bis (Mariana Olivera West, Mexico) introduced a revised draft designed to take into account the different proposals and views that had been expressed during the third session of the Ad Hoc Committee.

149. There was general agreement that international cooperation was a vital factor in the convention and would play an important part in assisting developing States.

150. There were different views expressed, however, on whether international cooperation should be dealt with in a separate article, and to what extent international cooperation should be detailed in the text of the draft convention.

151. Some delegations expressed concern that States Parties may be able to use a provision on international cooperation as a justification for non-implementation of the convention. The Committee noted, however, that it could be made clear in the final report of the conference adopting this convention that the international cooperation obligation did not detract from the obligation of States to implement the convention.

152. The Committee noted that article 4 of the Convention on the Rights of the Child provided one model. In addition, international cooperation was mainstreamed throughout the text of that Convention.

153. The Chair noted that it was likely that this convention would be accompanied by a detailed action plan, so a framework for international cooperation should be set out in the convention. Rule 22 of the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities provided detailed guidance that could be considered in the formulation of an action plan.

154. The proposal was referred to the facilitator, who was requested to conduct further consultation.

Draft article 25

155. There was general agreement that the convention needed to include an article on both national and international monitoring.

156. There was general agreement that monitoring mechanisms needed to be effective. This was particularly important because of the lack of effective implementation of the existing rights for persons with disabilities.

157. Secondly, there was agreement that the monitoring provisions of this convention should be at least as good, and preferably better, than those of other treaties. Being the most recent human rights convention, its monitoring provisions will be the most up to date and will have the potential to serve as an example for the others.

158. The Committee noted the work being done to reform the existing treaty bodies, and the report being prepared by the Office of the High Commissioner for Human Rights for the seventh session of the Ad Hoc Committee. While there was agreement that these would usefully inform the Committee's discussion on monitoring provisions, many delegations also noted that the Committee should not be held hostage by time frames imposed by the reforms (this work had been going on for many years and might go on for some time yet). The Committee might have to decide on the monitoring provisions of this convention while still waiting for the outcomes of the reform work. It will be important, therefore, to ensure that the provisions are flexible enough to take account of later reforms and to come up with language that preserves that approach.

159. Thirdly, there was general support for the involvement and full participation of civil society, of both persons with disabilities and their representative organizations, in all levels of the monitoring process.

160. Most delegations were only able to express a preliminary view, and they look forward to further discussions at the next session, when they will have had an opportunity to consider the report of the Office of the High Commissioner for Human Rights to the Committee, and other proposals.